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March 16, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: CC Docket No. 92-297, RM 7872 & 7722
Comments of Caribbean Communications Corp.
d/b/a St. Thomas - St. John Cable TV

Dear Ms. Searcy:

Transmitted herewith is an original and four (4) copies of Caribbean Communications Corp. d/b/a St. Thomas-St. John Cable TV's ("St. Thomas-St. John") "Comments" in response to the Commission's proposals in the above-referenced proceeding. This document is directed to the attention of the Chief, Common Carrier Bureau.

Should any questions arise in connection with this matter, kindly communicate directly with the undersigned.

Respectfully submitted,


Howard J. Barr

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Rulemaking to Amend Part 1 and Part 21
of the Commission's Rules to
Redesignate the 27.5 - 29.5 GHz
Frequency Band and to Establish Rules
and Policies for Local Multipoint
Distribution Service**

CC Docket No. 92-297
RM-7872 & 7722

**COMMENTS OF CARIBBEAN COMMUNICATIONS CORP.
d/b/a ST. THOMAS-ST. JOHN CABLE TV**

I. CROSS OWNERSHIP LIMITATIONS ARE INAPPROPRIATE

St. Thomas-St. John concurs with the Commission's conclusion that the Local Multipoint Distribution Service ("LMDS") is separate and distinct from other multipoint distribution services. Because the service is separate and distinct from other multipoint services, the Commission's decision not to propose cross ownership rules is appropriate. Despite this conclusion, the Commission questions whether the Congressionally imposed ban on cable operators holding licenses "for multichannel multipoint

distribution service"^{1/} includes a ban on cable ownership of LMDS licenses if used to distribute video programming. NPRM, supra at 13-14.

St. Thomas-St. John submits that the ban is not inclusive of the LMDS. Not only does the use of novel technological applications in the delivery of the service, including the ability to use previously unusable spectrum, warrant this conclusion, but the range of services that can be delivered, both individually and simultaneously, virtually mandates this conclusion. Cable operators are in a unique position to implement the many telecommunications offerings that are possible at 28 GHz. To place any limits on their ability to fully exploit this resource would be a disservice to the public interest.

Moreover, a literal reading of the statute requires that the cross ownership ban be limited in scope. The Congressionally mandated cross ownership ban refers specifically -- and only -- to the MMDS and to SMATV service, whereas in other sections of the 1992 Cable Act, Congress cuts a much broader swath, making its provisions applicable to all "multichannel video programming distributors." See 47 U.S.C. §325(b)(1), as amended. Had Congress intended its cross ownership ban to extend to services beyond MMDS and SMATV it would have said as much in Section 533(a)(2) as it did in other sections of the 1992 Cable Act. While clearly the LMDS has the capacity to be a multichannel

^{1/} Section 11 of the Cable Television Consumer Protection and Competition Act of 1992 (the "1992 Cable Act"), 47 U.S.C. §533(a)(2).

video program distributor, it just as clearly is not the MMDS. Any extension of the ban beyond the confines of MMDS and SMATV is inappropriate.

Indeed, Congress apparently made a policy decision to exclude emerging technologies from its cross ownership ban, even where the provision of video programming is essentially the sole service that can or will be provided. Section 11 of the 1992 Cable Act, as adopted, is essentially the original Senate version, except that cross ownership restrictions originally proposed with respect to Direct Broadcast Satellite ("DBS") systems was excised by the Conference Committee. Conference Report No. 862, 102d Cong. at 81-82. The Conference Committee excised the DBS cross ownership limitations stating that: "In view of the fact that there are no DBS systems operating in the United States at this time, it would be premature to require the adoption of limitations now." Id at 82.

Congress's reasoning behind its decision to exclude DBS from its cross ownership restrictions is equally applicable to the LMDS. With the exception of the pioneer 28 GHz system in Brooklyn, New York, licensed and operating pursuant to a waiver of the Commission's Rules, no 28 GHz systems are operating in the United States at this time. Much as it was inappropriate to adopt DBS cross ownership restrictions because of the lack of operational systems, the adoption of LMDS limitations at this juncture would be similarly inappropriate.

II. THE UNITED STATES VIRGIN ISLANDS SHOULD BE DESIGNATED AS A SERVICE AREA

The Commission's proposal to license LMDS in accordance with the 487 "Basic Trading Areas" designated by Rand McNally, plus Puerto Rico and Alaska is seemingly appropriate. That proposal, however, as well as all other service area schemes suggested by the Commission, inexplicably neglects to include the United States Virgin Islands, encompassing the islands of St. Thomas, St. John and St. Croix, as a service area.

The Commission has stated that by including Alaska and Puerto Rico its licensing scheme will encompass all land areas within the United States. This simply is not true. The United States Virgin Islands are as much a part of the United States as is Puerto Rico and should be included in the Commission's licensing scheme.

As in Puerto Rico, all radio and television broadcast stations operating in the United States Virgin Islands are licensed by and subject to the rules and regulations of the Commission as well as the Communications Act. As in Puerto Rico, the operations of cable systems in the United States Virgin Islands are subject to the Commission's rules and regulations as well as the Communications Act. The United States Virgin Islands are as much entitled to this breakthrough technology as any other state or territory on a co-equal basis. Moreover, the failure to designate the United States Virgin Islands as a service area will render the islands a telecommunications have not, a result inconsistent with the concept that all under the jurisdiction of the


United States should be the beneficiary of the most advanced telecommunications technologies available.

CONCLUSION

Wherefore, the premises considered, St. Thomas-St. John respectfully requests that the Commission adopt its non-cross ownership ban proposal and that it include the United States Virgin Islands as an LMDS service area.

Respectfully submitted,

**CARIBBEAN COMMUNICATIONS CORP.
d/b/a ST. THOMAS-ST. JOHN
CABLE TV**

By 
Randolph H. Knight
Its President

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March 11, 1993

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